

ORIGINAL ORIGINAL
FILE

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OF COUNSEL
TOBEY B. MARZOUK

June 3, 1992

* ADMITTED VA ONLY

RECEIVED

JUN - 3 1992

BY HAND DELIVERY

Ms. Donna Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

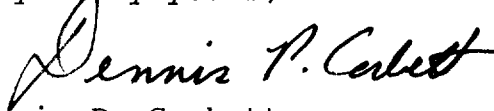
Re: MM Docket No. 92-106
Bethany Beach, Delaware

Dear Ms. Searcy:

On behalf of Jeffery Scott and Eicher Communications, Inc., applicants in the above-referenced proceeding for a new FM station on Channel 278A at Bethany Beach, Delaware, I am transmitting herewith an original and six copies of their Joint Request for Approval of Settlement Agreement.

Should there be any questions concerning this matter, please contact the undersigned with respect to Scott's application or Stephen Diaz Gavin with respect to Eicher's application.

Very truly yours,


Dennis P. Corbett

DPC:kb
Enclosures
cc (w/encl.): Stephen Diaz Gavin, Esq.

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ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re the Applications of) MM Docket No. 92-106
JEFFERY SCOTT) File No. BPH-910213ME
EICHER COMMUNICATIONS, INC.) File No. BPH-910213MF
For Construction Permit for)
new FM station on Channel 278)
at Bethany Beach, Delaware)

RECEIVED

JUN - 3 1992

To: The Honorable Richard L. Sippel
Administrative Law Judge

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

JOINT REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT

EICHER COMMUNICATIONS, INC. ("Eicher") and JEFFERY SCOTT ("Scott"),^{1/} pursuant to Section 311(c) of the Communications Act of 1934, as amended, 47 U.S.C. §311(c) (1990), and Section 73.3525 of the Commission's Rules, 47 C.F.R. §73.3525, hereby request that the Commission approve the attached Settlement Agreement between the Joint Parties, a copy of which is contained in Appendix 1 of this Joint Request.

1. The Agreement between Eicher and Scott provides for the dismissal of Eicher's application, in consideration of the reimbursement of up to \$18,000.00 in expenses incurred in connection with the prosecution of Eicher's application.^{2/}

^{1/} Collectively, hereinafter the "Joint Parties."

^{2/} In support of Eicher's claim for reimbursement, attached as Appendix 2 is the "Declaration of Elaine C. Eicher," which attests that her legitimate and prudent expenses exceed \$18,000.00. Appendix 3 is the Certification of Counsel by counsel for Eicher, in which he lists the services performed for Eicher and certifies that legal fees incurred in connection with the preparation, filing and prosecution of Eicher's application exceed \$9,000.00.

2. In addition, the Joint Parties request that the Presiding Judge approve the attached Consulting Agreement between Scott and Elaine C. Eicher, president and 100% shareholder of Eicher. The Consulting Agreement provides that Scott employ Mrs. Eicher as a consultant for one year concerning matters relating to broadcast station financial planning and management, including first and second-year budget projections under various operating scenarios, tax and accounting matters, sales forecasting, as well as other matters mutually agreeable to Scott and Mrs. Eicher. See, Appendix 1, Attachment A, p. 1. In consideration of providing such services, Scott will pay Mrs. Eicher a total of \$17,000.00 over the course of one year.

3. Grant of the Joint Request and approval of the Agreement are in the public interest. Such actions will eliminate a comparative hearing for the Bethany Beach station, as well as attendant appeals, which would otherwise delay inauguration of service on Channel 278 at Bethany Beach. Further, approval of the Agreement will save Commission resources involved in a hearing, as well as those of the Joint Parties. Finally, the Settlement Agreement provides for payment of a sum that does not exceed the legitimate and prudent expenses incurred by Eicher in preparation, filing and prosecution of its application. Thus, the Settlement Agreement conforms to the requirements of the Commission's Report and Order on Settlement Agreements Among Applicants for Construction Permits, 6 FCC Rcd 85 (1991), recon., 6 FCC Rcd 2901

(1991). Eicher and Scott have attached all necessary supporting documentation. 47 C.F.R. §73.3525.

4. Further, the Consulting Agreement is clearly within the bounds contemplated by the Commission. Mrs. Eicher's qualifications to provide the necessary consulting services, including her being a Certified Public Accountant and a part-time resident of the service area for 20 years, are set forth in her Declaration, which is Appendix 2 hereto. They demonstrate a bona fide basis for a consultancy. Venton Corporation, 90 FCC 2d 307, 314 (Rev. Bd. 1982). Moreover, the Consulting Agreement is reasonable in terms of its duration (one year) and the services to be provided because the public interest benefits from the assistance to a new broadcaster by a person like Mrs. Eicher, who has experience in financial accounting and forecasting matters, as well as a specific knowledge of the market. In his Declaration, which is Appendix 4 hereto, Scott has also averred that the Consulting Agreement is bona fide. See generally, Texas Television, Inc., 91 FCC 2d 1043, 1045 (¶ 7) (Rev. Bd. 1982).

5. Similar consulting agreements have been routinely approved, with Mass Media Bureau support, in cases involving settlement agreements entered into after the August 1, 1991 effective date of the new restrictions on settlement payments in comparative proceedings. See, e.g., David H. Greenlee, 7 FCC Rcd 2077, 2078 (Admin. L. J. 1992) (Initial Decision in MM Docket No. 91-96), and Mass Media Bureau's "Comments in Support of Joint

Petition for Approval of Settlement and Dismissal of Application," filed in MM Docket No. 91-96 on October 25, 1991.

6. In all respects, the Agreement and this Joint Request comply with Section 73.3525 of the Rules. The Agreement recites that it is the complete agreement of the Joint Parties. Further, the principal of each applicant has stated under penalty of perjury that neither Eicher nor Scott filed its application for the purpose of effectuating a settlement.^{3/}

WHEREFORE, in light of the foregoing, Eicher and Scott respectfully request that the Presiding Judge (1) grant this Joint Petition; (2) approve the Agreement contained in Appendix 1; (3) approve Scott's agreement to enter into a Consulting Agreement with Elaine C. Eicher; (4) dismiss Eicher's application with prejudice; (5) grant Scott's application and (6) terminate this proceeding.

Respectfully submitted,

EICHER COMMUNICATIONS, INC.

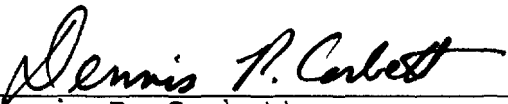
By: 

Stephen Diaz Gavin
BESOZZI & GAVIN
1901 L Street, N.W.
Suite 200
Washington, D.C. 20036
(202) 293-7405

Its Counsel

^{3/} See, Appendix 2, "Declaration of Elaine C. Eicher" and Appendix 4, "Declaration of Jeffery Scott."

JEFFERY SCOTT

By: 
Dennis P. Corbett
Stephen D. Baruch
LEVENTHAL SENTER & LERMAN
2000 K Street, N.W.
Suite 600
Washington, D.C. 20006
(202) 429-8970

Its Counsel

Dated: June 3, 1992
0745/joint.mot

APPENDIX 1

SETTLEMENT AGREEMENT

This Agreement is made and entered into on the 1st day of June 1992, by and between Jeffery Scott ("Scott"), an individual resident of Delaware, and Eicher Communications, Inc. ("Eicher"), a Delaware corporation.

WHEREAS, Scott and Eicher have filed mutually exclusive applications for a construction permit for a new FM broadcast station to operate on Channel 278A at Bethany Beach, Delaware, which applications are pending before the Federal Communications Commission ("FCC" or "Commission") and which were designated for a consolidated hearing in MM Docket No. 92-106;

WHEREAS, Scott and Eicher entered a Settlement Agreement on July 31, 1991 which the FCC declined to approve or disapprove in its Hearing Designation Order in MM Docket No. 92-106, released May 14, 1992;

WHEREAS, Scott and Eicher have, pursuant to paragraph 7 of their July 31, 1991 Settlement Agreement, agreed to negotiate a revised agreement that is consistent with the rules and policies of the FCC; and

WHEREAS, Scott and Eicher recognize that it is in the best interest of the parties to avoid the time and expense of further prosecution of their respective applications, and that it is in the best interest of the public to hasten the initiation of a new FM broadcast service to the residents of Bethany Beach, Delaware and to conserve FCC resources;

NOW, THEREFORE, in consideration of the foregoing, and subject to the conditions set forth herein and the prior approval of the Commission, the parties agree as follows:

1. Eicher agrees to dismiss its application with prejudice conditioned only upon Commission approval of the terms and conditions contained in this Agreement.

2. Within five (5) days of the execution of this Agreement, the parties shall file a joint request for approval of settlement ("Joint Request") with the FCC seeking the following:

- (a) approval of this Agreement for payment to Eicher of the payment on the terms specified in paragraph 3 below;
- (b) approval of Scott's agreement hereby to enter a Consulting Agreement with Elaine C. Eicher in the form of Attachment A hereto;
- (c) the dismissal with prejudice of Eicher's application for a new FM radio construction permit at Bethany Beach, Delaware;
- (d) the final grant of Scott's application for a new FM radio construction permit at Bethany Beach, Delaware; and
- (e) termination of the hearing proceeding.

With the Joint Request there shall be filed this Agreement and the declarations of one or more principals of each of the parties to this Agreement setting forth the reasons why this Agreement is in the public interest, and stating that their

applications were not filed for the purposes of reaching or carrying out a settlement. Each party agrees to cooperate with the other and with the FCC by expeditiously providing each other and/or the FCC with any additional information which may reasonably be requested, and refrain from any act or omission which would impede the issuance of a Final Order resulting in the grant of the Channel 278A construction permit at Bethany Beach, Delaware to Scott. This Agreement is entered into subject to the final approval of the FCC, and shall be void unless approved. Should the FCC decline to approve any provision of this Agreement, the parties agree to proceed so as to secure approval of an agreement which most nearly reflects the original intentions of the parties as reflected herein. This Agreement is further contingent upon the approval of the Consulting Agreement, dismissal with prejudice of Eicher's application, on a final grant of the construction permit to Scott, and on termination of the consolidated hearing in MM Docket 92-106.

3. Eicher and Scott agree that, in the event Scott receives final grant of the construction permit for Channel 278A at Bethany Beach, Delaware, and all other conditions set forth in paragraph 2, supra, are satisfied, Scott will reimburse Eicher's expenses with respect to its application in the amount of Eighteen Thousand Dollars (\$18,000.00) or such lesser amount as the Commission may approve as properly reimbursable expenses, ("the Payment"), by cashier's or

certified check. The check shall be payable to Eicher Communications, Inc., and delivered to communications counsel for Eicher within fifteen (15) days after an Order(s) of the Commission granting the construction permit for FM Channel 278A at Bethany Beach, Delaware to Scott, dismissing with prejudice the application of Eicher, and terminating the hearing proceeding becomes a Final Order(s). To secure the Payment, within twenty-five (25) days of release by the FCC of public notice of the approval of the Joint Request and grant of Scott's application, or by July 1, 1992, whichever is later (the "Escrow Date"), Scott shall deposit the sum of Eighteen Thousand Dollars (\$18,000.00) or such lesser amount as the Commission may have approved, in the form of a cashier's or certified check, in the escrow account of Leventhal, Senter & Lerman. On the day the escrow deposit is made, Leventhal, Senter & Lerman shall notify communications counsel for Eicher by telephone and in writing that the escrow deposit has been made. The Payment required by this paragraph shall be made on the terms set out herein from these escrowed funds. Any interest on the escrowed funds shall be paid to Scott. Scott and Eicher further agree that, in the event Scott receives grant of the construction permit for FM Channel 278A at Bethany Beach, Delaware, and all other conditions set forth in paragraph 2, supra (with the exception of the Final Order requirement), are satisfied, Scott and Eicher shall execute the Consulting Agreement that is Attachment A hereto on the Escrow

Date. The Consulting Agreement shall be rendered null and void and of no further force and effect if the grant of Scott's application does not subsequently become a Final Order. For purposes of this Agreement, a "Final Order" shall be deemed to be an action by the Commission or its delegated authorities which, pursuant to the rules and regulations of the FCC and the Communications Act of 1934, as amended, is no longer subject to, or the subject of, administrative or judicial review, reconsideration or stay.

4. If a Final Order approving the Joint Request is not obtained within nine (9) months of the date hereof, this Agreement shall terminate and all escrowed funds and all interest thereon shall be paid to Scott.

5. Any notice hereunder shall be in writing and any payment, notice or other communications shall be deemed given when delivered personally, or mailed by certified mail, postage prepaid, to the following or their respective designees:

If to Scott:

Mr. Jeffery Scott
12 The Narrows
Fenwick Island, DE 19975

With copy to:

Dennis P. Corbett, Esq.
Leventhal, Senter & Lerman
2000 K Street, N.W.
Suite 600
Washington, D.C. 20006-1809

If to Eicher:

Elaine C. Eicher
4360 Van Ness Street, N.W.
Washington, D.C. 20016

With copy to:

Stephen Diaz Gavin, Esq.
Besozzi & Gavin
1901 L Street, N.W.
Suite 200
Washington, D.C. 20036

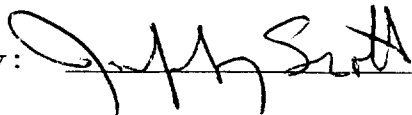
6. This Agreement contains the entire understanding of the parties and is governed by the laws of the State of Delaware.

7. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors, heirs and assigns. Each of the parties represents that it has complete authority to enter into, execute, and carry out this Agreement.

8. This Agreement may be signed in counterparts with the same effect as if the signature to each were upon the same pages of the Agreement.

The parties hereto have executed this Settlement Agreement as of the date first written above.

JEFFERY SCOTT

By: _____

EICHER COMMUNICATIONS, INC.

By: _____
Elaine C. Eicher
President

With copy to:

Stephen Diaz Gavin, Esq.
Besozzi & Gavin
1901 L Street, N.W.
Suite 200
Washington, D.C. 20036

6. This Agreement contains the entire understanding of the parties and is governed by the laws of the State of Delaware.

7. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors, heirs and assigns. Each of the parties represents that it has complete authority to enter into, execute, and carry out this Agreement.

8. This Agreement may be signed in counterparts with the same effect as if the signature to each were upon the same pages of the Agreement.

The parties hereto have executed this Settlement Agreement as of the date first written above.

JEFFERY SCOTT

By: _____

EICHER COMMUNICATIONS, INC.

By: Elaine C. Eicher
Elaine C. Eicher
President

ATTACHMENT A

CONSULTING AGREEMENT

Agreement, made this ____ day of _____ 1992, by and between Jeffery Scott ("Scott") an individual resident of Delaware, and Elaine C. Eicher ("Consultant"), an individual resident of the District of Columbia.

W I T N E S S E T H

WHEREAS, Scott recognizes that Consultant, with her experience, knowledge, and background, can contribute to the successful operation of his broadcasting business; and

WHEREAS, Consultant is desirous of making her services available to Scott, and Scott is desirous of availing himself of Consultant's services.

NOW, THEREFORE, the parties agree as follows:

1. Consultation Services. Scott hereby retains Consultant to perform the following services in accordance with the terms and conditions set forth in this Agreement: Consultant will consult with Scott concerning matters relating to broadcast station financial planning and management, including first and second year budget projections under various operating scenarios, tax and accounting matters, sales forecasting, as well as other matters, mutually agreeable to Scott and Consultant.

2. Term of Agreement and Time Devoted By Consultant. It is anticipated that Consultant will spend one year in fulfilling her obligations under this Agreement, commencing

with the first day of the first month after the FCC's issuance of a construction permit to Scott for Channel 278A at Bethany Beach, Delaware (BPH-910213ME) (the "Start Date"). If the FCC does not issue an FCC construction permit to Scott for Bethany Beach within nine months of the date hereof, this Agreement shall be null and void and of no further force and effect. The particular amount of time which Consultant must devote to her consulting services during the term of this Agreement may vary from day to day or week to week. However, Consultant shall be required to devote no more than a maximum of 20 hours per month to her duties in accordance with this Agreement, so long as Scott shall make reasonable request for Consultant's services each month.

3. Place Where Services Will Be Rendered. It is anticipated that Consultant will perform services in accordance with this Agreement either at the offices of Scott, at her own offices, or on the telephone.

4.(a) Payment to Consultant. Scott shall pay to Consultant One Thousand Four Hundred and Sixteen Dollars and Sixty Seven Cents (\$1,416.67) per month for twelve months (a total of \$17,000.00) beginning with the end of the month which follows the Start Date as specified in paragraph 2 above (the "Consulting Fee"). All payments shall be made by certified or cashier's check payable to Elaine C. Eicher.

(b) Should Scott fail to pay any installment on or before its due date, and Consultant is not in breach hereof, Consultant shall so notify Scott in writing, by certified mail, return receipt requested. If, ten (10) days after the sending of such notice, the delinquent payment is not received by Consultant, then all succeeding installments shall immediately become due and payable and Consultant shall have the right to demand and receive payment of the entire unpaid balance from Scott, and Scott hereby warrants and acknowledges that he waives all defenses.

(c) All payments herein described shall be paid by Scott on the condition that Consultant actually performs the services requested by Scott under this Agreement.

(d) During the term of this Agreement, Scott shall be permitted to assign the permit or license to a successor corporation pursuant to an application on FCC Form 316. In the event, however, that Scott files an application on FCC Form 314 requesting FCC approval of the assignment of the station permit or license for Channel 278A or on FCC Form 315 requesting FCC approval of the transfer of control of a successor corporation, all remaining payments shall be accelerated and paid to Elaine C. Eicher in one lump sum at the closing of the transactions underlying such transfer or assignment.

(e) As security for the payment of the Consulting Fee, Scott is herewith providing Consultant with an executed

irrevocable "standby" letter of credit substantially in the form attached hereto as Exhibit A, which provides for payment of the accelerated balance due of the Consulting Fee in the event of a failure by Scott under Subsection 4(b) of this Agreement to pay an installment of the Consulting Fee.

5. Independent Contractor. Both Scott and Consultant agree that Consultant will act as an Independent Contractor in the performance of her duties under this contract. Accordingly, Consultant shall be responsible for payment of all taxes, including but not limited to federal, state, and local taxes, arising out of the Consultant's activities in accordance with this Agreement, including by way of illustration and not limitation, federal and state income tax, Social Security Tax, unemployment insurance taxes, and any other taxes or business license fees as required. It is expressly agreed that Consultant shall have no voice in the day-to-day control of the Station.

6. Governing Law. The validity, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of Delaware. In the event action or suit is required to enforce any of the terms hereof, the parties hereby stipulate, to the extent permitted by law, that venue shall be in the State of Delaware, and that the prevailing party therein shall be entitled to reasonable attorney's fees and costs.

7. This Agreement may not be assigned by either party without the express written consent of the non-assigning party. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto, their successors and permitted assigns. This Agreement may be signed in counterparts with the same effect as if the signature to each were upon the same pages of the Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

WITNESSED OR ATTESTED BY: JEFFERY SCOTT

By: _____
Jeffery Scott

CONSULTANT

By: _____
Elaine C. Eicher

IRREVOCABLE LETTER OF CREDIT NO. [Bank File Number] - Issued [date],
1992

BENEFICIARY: AMOUNT: \$17,000.00
Elaine C. Eicher
4360 Van Ness Street, N.W.
Washington, D.C. 20016

EXPIRATION DATE: [one year from the
Start Date of the
Consulting Agreement]

Dear Ms. Eicher:

We hereby establish our Irrevocable Letter of Credit No. [Bank File Number] for the account of Jeffery Scott ("Scott") in the amount of U.S. Seventeen Thousand and no/100 Dollars (\$17,000) in favor of:

Elaine C. Eicher ("Eicher")
4360 Van Ness Street, N.W.
Washington, D.C. 20016

We understand that the above-named beneficiary is entering into an agreement with Scott that will obligate Scott to pay the beneficiary the sum of \$17,000 (the "Consulting Fee") in monthly installments of \$1,416.67 during the course of one year pursuant to a Consulting Agreement between Eicher and Scott, beginning on a Start Date as defined in Paragraph 2 of that Consulting Agreement. Under the Consulting Agreement, the balance of the Consulting Fee due Eicher will decline each month by \$1,416.67 per month upon the timely payment by Scott of the monthly installment payments due under the Agreement.

Payment to the above-named beneficiary is to be made to the above-named beneficiary in the event of a breach under Section 4(b) of the Consulting Agreement by Scott of his obligation to pay Eicher under the Consulting Agreement. Payment to the above-named beneficiary shall be in an amount that is equal to the accelerated balance that is due and payable under Section 4(b) of the Consulting Agreement, a copy of which is Attachment 1 hereto.

Presentations under this credit are available by your drafts at sight payable at [bank name and address] after the Start Date. It shall be the obligation of attorneys for Scott and Eicher to jointly notify the [bank] of the Start Date by letter, return receipt requested. Presentations must be accompanied by the following:

1. A certified copy of the order of the Federal Communications Commission granting the application of Jeffery Scott for a new FM radio station on Channel 278A at Bethany Beach, Delaware.

2. A copy of the Consulting Agreement between Eicher and Scott;
3. An affidavit from the Beneficiary stating the accelerated amount due under the Consulting Agreement.
4. An affidavit by the attorney for the above-named beneficiary verifying that Scott has failed to pay an installment on or before its due date, Eicher has provided written notice to Scott of such failure, ten (10) days have passed since the mailing of such notice and the delinquent payment has not been received by Eicher.
5. An affidavit by the attorney for the above-named beneficiary verifying that pursuant to the Rules and Regulations of the FCC and the Communications Act of 1934, as amended, the FCC's grant of the application of Scott for a new FM radio station on Channel 278A at Bethany Beach, Delaware is a "final" order, i.e., no longer subject to judicial or administrative appeal, reconsideration or review.

This Letter of Credit expires on the earlier of: (1) the date the bank is jointly notified by Scott and Eicher that the Consulting Agreement has been rendered null and void under Paragraph 2 of that Consulting Agreement; (2) one year after the Start Date as defined in Paragraph 2 of the Consultant Agreement; or (3) on March 1, 1994.

Except as otherwise expressly stated herein, this advance is subject to the Uniform Customs and Practice for Commercial Documentary Credit (1983 Revision) fixed by the International Chamber of Commerce, Brochure No. 400.

The amount of any draft under this credit is to be endorsed on the reverse of the hereof. All drafts must be marked "drawn under letter of credit [bank name] [bank letter number]"

We hereby engage with bona fide holders, endorsers and drawers of such drafts drawn under and in compliance with the terms of this credit that such drafts will be duly honored upon due presentation and delivery of documents as specified to [bank name and address].

Sincerely,

[Bank Officer]

0745/IrevLOC.1tr

APPENDIX 2

DECLARATION

Elaine C. Eicher, under penalty of perjury, states as follows:

1. I am the sole shareholder and the President of Eicher Communications, Inc. ("Eicher"), a Delaware corporation, an applicant for authority to construct a new FM radio station on Channel 278 at Bethany Beach, Delaware, FCC File No. BPH-910213MF.

2. Eicher has entered into an agreement with Jeffery Scott ("Scott"), an individual applicant for the same facilities, to settle the Bethany Beach proceeding (the "Settlement Agreement"). The Settlement Agreement contemplates dismissal of the Eicher application in consideration of the reimbursement of expenses up to \$18,000.00. The Settlement Agreement also contemplates the approval of a Consulting Agreement between Eicher and Scott.

3. Eicher has incurred expenses in connection with the prosecution of its application in excess of \$18,000.00. Such expenses include: bills from counsel to Eicher for legal fees in excess of \$9,000.00 (as set forth in greater detail in the accompanying Certificate of Counsel); the application filing fee of \$2,030.00; approximately \$6,000.00 in consulting engineering fees (for the Eicher application itself, studies related to the "Petition to Deny" the Scott application and engineering affidavits for the Petition and related papers); payment of \$500.00 to the owner of Eicher's transmitter site to assure access to the site; payment of \$600.00 for services in connection with location of an acceptable transmitter site; and \$200.00 in miscellaneous state filing fees and other expenses in connection with the organization of Eicher as a Delaware corporation. Thus, approval of the

Settlement Agreement's payment of \$18,000.00 to Eicher is for reimbursement of less than Eicher's total expenses in connection with the prosecution of its application. Such sum does not include the "hearing designation fee" of \$6,760.00 paid to the Commission by Eicher, for which Eicher will request reimbursement from the Commission following approval of the Settlement Agreement.

4. I have the requisite credentials to perform the services contemplated by the Consulting Agreement between Scott and myself.

5. In 1965, I received a B.A. in Mathematics from the Catholic University of America, Washington, D.C. In 1978, I received a M.A. degree in Operations Research from the George Washington University, Washington, D.C. I have been a Certified Public Accountant since 1989. I have operated my own financial and tax accounting business. I have also participated in and managed real estate and telecommunications syndications. Thus, I am experienced in the specific matters that are the subject of the Consulting Agreement.

6. Finally, since 1972 I have owned (and resided on a part-time basis) a residence at 18 Terrace Road, Rehoboth Beach, Delaware, which is located within the 1 mV/m service area of Scott's station. Thus, I have first-hand knowledge of the market conditions in the Bethany Beach/Rehoboth Beach radio market.

7. Approval of the Settlement Agreement is in the public interest, for the reasons set forth therein. It will conserve resources of both the parties, as well as the Commission, and speed the inauguration of radio service licensed to Bethany Beach.